

REMARKS

The Examiner is requiring restriction to one of the following groups:

Group I: Claims 1-12, drawn to artificial leather; and

Group II: Claim 13-15, drawn to a method of making artificial leather.

Applicants have elected Group I, claims 1-14, with traverse.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required. (M.P.E.P. § 803). The burden of proof is on the Examiner to provide reasons and/or examples, to support any conclusion in regard to patentable distinctions. (M.P.E.P. § 803). Applicants respectfully traverse the restriction requirement on the grounds that the Examiner has not carried the burden of providing any reasons and/or examples to support any conclusion that the claims of the restricted groups are patentably distinct.

The Examiner has categorized the relationships between Groups I and II as process of making and product made. Patentable distinctness may be shown if either or both of the following can be shown: (A) that the process as claimed is not an obvious process of making the product and the process as claimed can be used to make other and different products; or (B) that the product as claimed can be made by another and materially different process (M.P.E.P. § 806.05(f)). The Examiner asserts that the article of Group I may be made by 1) putting both pigments into the water-dispersed elastomeric polymer, and 2) removing the polyvinyl alcohol step.

The Examiner, however, does not meet the requirements of M.P.E.P. § 806.05(f), because his assertion is not evidence that the claimed artificial leather can be made by another and materially different process. In particular, it appears that the Examiner has merely reduced and simplified the three process steps recited in claim 13. The Examiner has not explained how such a simplified approach to the claimed process is materially different,

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or even shown that any of the "suede," "semi-grained," or "grained" artificial leathers of the claimed invention are necessarily produced by the reduced process. Therefore, the Examiner's reasoning is merely a restatement of his conclusion that the two groups are patentably distinct. As the Examiner has provided insufficient reasons in support of this belief, he has not met the required burden.

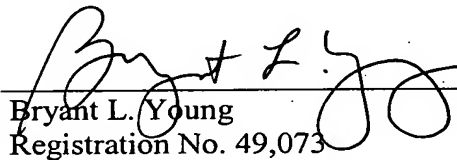
Accordingly, for at least the reasons presented above, Applicants submit that the Examiner has failed to meet the burden necessary to sustain the restriction requirement. Withdrawal of the requirement is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)


Bryant L. Young
Registration No. 49,073